

EXHIBIT

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COMPLAINT CASE NUMBER:

OMB NO.: 2900-0716
EXPIRATION DATE: DEC 31, 2019
RESPONDENT BURDEN: 30 Min.

Department of Veterans Affairs

COMPLAINT OF EMPLOYMENT DISCRIMINATION

Read the instructions on the reverse side of this form carefully before completing the front of this form.

1. NAME (Last, first, middle initial) (Please print) Burton, Brayn, M		3. MAILING ADDRESS [REDACTED]		4a. WORK TELEPHONE NUMBER (Include Area Code) [REDACTED]
2. EMAIL ADDRESS 				4b. PRIMARY TELEPHONE NUMBER (Include Area Code) [REDACTED]
5. ARE YOU: <input checked="" type="checkbox"/> A VA EMPLOYEE <input type="checkbox"/> AN APPLICANT FOR EMPLOYMENT <input type="checkbox"/> A FORMER VA EMPLOYEE		6a. JOB TITLE, SERIES AND GRADE Nurse Manager, Emergency Dept. Nurse 3 Step 10 6b. SERVICE/SECTION/PRODUCT LINE Nursing Services		7. NAME AND ADDRESS OF VA FACILITY WHERE DISCRIMINATION OCCURRED James H. Quillen VAMC P.O. Box 4000 Mountain Home, TN 37684
NOTE: For each employment related matter that you believe was discriminatory you must list the bases (list one or more of the following): Race (Specify), Color (Specify), Religion (Specify), Sex (Male or Female), National Origin (Specify), Age (Provide date of birth), Disability (Specify), Genetic Information (including family medical history), and/or Reprisal for participating in the EEO process or opposing unlawful discrimination.				
8. BASIS	9. CLAIM(S) (What employment related claim(s) - personnel action(s), incident(s), or event(s) caused you to file this complaint? Briefly state the specific claim, personnel action and/or event that caused you to file this complaint. Use an additional sheet of paper if necessary. You should not include information that violates the Privacy Act of 1974 and the Health Insurance Portability and Accountability Act (HIPAA). Some examples are patient medical records, personal records of other VA-employees, etc.)			10. DATE OF OCCURRENCE (Include the most recent date(s))
	Please see attached form ORM Case number: 2001-0621-2020105006			
11. REMEDIES SOUGHT (Use an additional sheet of paper if necessary.) Full, independent investigation (Outside of this VA), termination of Ms. Swenson and Ms. Eddy for allowing this behavior. Monetary settlement for mental health deterioration caused by this environment. Hire more male Veterans in leadership positions				
12a. DO YOU HAVE A REPRESENTATIVE? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO		12c. PROVIDE THE NAME AND ADDRESS OF YOUR REPRESENTATIVE		12d. TELEPHONE NUMBER (Include Area Code)
12b. IF "YES," IS HE OR SHE AN ATTORNEY? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO				12e. EMAIL ADDRESS
13a. HAVE YOU CONTACTED AN EEO COUNSELOR? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO		13b. NAME OF EEO COUNSELOR Yvette James		13c. DATE OF INITIAL CONTACT WITH ORM 07/07/2020
14. If you contacted an EEO Counselor more than 45 calendar days after the Date(s) of Occurrence, listed in item 10, or if this complaint is filed more than 15 calendar days after receipt of a Notice of Right to File a Discrimination Complaint, you must explain why you were untimely in seeking EEO counseling or untimely in filing a complaint. (Use an additional sheet of paper, if necessary.)				
15a. HAVE YOU FILED A UNION GRIEVANCE ON ANY CLAIM(S) LISTED ABOVE? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO		15b. IF "YES," LIST THE CLAIM(S) AND DATE GRIEVANCE FILED		16a. HAVE YOU FILED AN APPEAL WITH THE MERIT SYSTEM PROTECTION BOARD (MSPB) ON ANY OF THE CLAIMS LISTED ABOVE? <input type="checkbox"/> YES <input type="checkbox"/> NO
				16b. IF "YES," LIST THE ISSUE(S) AND DATE MSPB APPEAL FILED.
17a. HAVE YOU FILED THIS COMPLAINT WITH ANYONE ELSE? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO		17b. IF "YES," PROVIDE THE NAME AND ADDRESS James H. Quillen VAMC HR, ELT, EEO P.O. Box 400, Mountain Home, TN		
18. SIGNATURE OF COMPLAINANT (Sign in ink. Do not print) Bryan M. Burton MBA-Hem, BSN, RN				19. DATE 8-10-2020

VA FORM
MAR 2017 4939SUPERSEDES VA FORM 4939, MAR 2013,
WHICH SHOULD NOT BE USED.

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COMPLAINT OF EMPLOYMENT DISCRIMINATION INSTRUCTIONS

Read the following instructions carefully before you complete this form. Please complete all items on the complaint form.

GENERAL: Pursuant to the Equal Employment Opportunity Commission (EEOC) Title 29 Code of Federal Regulations (29 C.F.R.) §1614, VA Form 4939, Complaint of Employment Discrimination, can be used by VA employees, former employees and applicants for employment who file a formal Equal Employment Opportunity (EEO) complaint of discrimination. This regulation prohibits discrimination based on race, color, religion, gender (sex), national origin, age (40 years and over), physical or mental disability, genetic information (including family medical history), and/or reprisal for participating in the EEO process or opposing unlawful discrimination.

You can obtain assistance from your EEO Counselor in filling out this form. Your EEO Counselor can also answer any questions you may have about this form. In item 8, you should specify the basis of your complaint: race, color, religion, gender (sex), national origin, age (*date of birth*), physical or mental disability (*specific information about your disability*), genetic information (including family medical history), and/or reprisal for participating in the EEO process or opposing unlawful discrimination. If you list "Reprisal," please state the nature of the prior EEO activity in which you were engaged, i.e. did you file a prior EEO complaint? Use an additional sheet of paper, if necessary.

It is very important that you be precise as to the dates of all actions or events you are protesting. In addition, the claims listed in item 9, must be limited to those claims discussed with an EEO Counselor (*discussed within 45 calendar days of occurrence of the event, or within 45 calendar days of the effective date, if a personnel action*) or like or related claims. If any of the claims listed in item 9 were discussed with an EEO Counselor, but not within 45 calendar days of their occurrence or of their effective date, you must explain why you waited more than 45 calendar days. If any of the claims listed in item 9 were not discussed with an EEO Counselor, please contact the Office of Resolution Management (ORM), Regional EEO Officer IMMEDIATELY. The requirement that you contact an EEO Counselor about every claim listed in item 9 will not be waived under any circumstances. Failure to do so will only delay the processing of your complaint.

It is your responsibility to keep the (ORM) informed of your current address. If you move, immediately advise the ORM District Office where you filed this complaint of your new address. In addition, you may receive certified and express mail in connection with your complaint. It is your responsibility to claim all certified and express mail. Failure to notify ORM of a change in address or to claim certified and express mail may lead to dismissal of your complaint.

REPRESENTATION: You may have a representative of your own choosing at all stages of the processing of your complaint. No EEO Counselor, EEO Investigator or EEO Officer may serve as a representative. (Your representative need not be an attorney, but only an attorney representative may sign the complaint on your behalf.)

WHEN TO FILE: Your formal complaint must be filed within 15 calendar days of the date you received the "Notice of Right to File a Discrimination Complaint" (NRTF) from your EEO Counselor. If you do not meet this time limit, you must explain why you waited more than 15 calendar days to file. These time limits may be extended under certain circumstances; however, they will NOT be waived and your complaint will NOT be investigated unless you explain your untimeliness and the explanation is acceptable in accordance with EEOC, 29 C.F.R. §1614(c).

WHERE TO FILE: The complaint should be filed with the ORM District Office identified in the NRTF. You may submit a copy either by mail, in person, electronically (via e-mail), or by facsimile. Filing instructions are contained in the cover letter attached to the NRTF.

PRIVACY ACT STATEMENT: Maintenance and disclosure of VA Form 4939 is made in accordance with the Privacy Act of 1974. Collection of the information on this form is authorized and/or required by the regulations of the EEOC, 29 C.F.R. §1614. All records, from which information is retrieved, by the name or personal identifier of a respondent, are maintained by a Government-wide Systems of Records: EEOC/GOVT-1, Equal Employment Opportunity Complaint Records and Appeal Records. The information collected will be used by ORM to determine whether your complaint is acceptable for investigation and in connection with any subsequent investigation and processing of your complaint. In the course of any investigation, this form may be shown to any individual who may be required by regulations, policies or procedures of the EEOC and/or ORM to provide information in connection with this complaint, including individuals you may have identified as responsible for the acts or events at issue in this complaint. Other disclosures may be: (a) to respond to a request from a Member of Congress regarding the status of the complaint or appeal; (b) to respond to a court subpoena and/or to refer to a district court in connection with a civil suit; (c) to disclose information to authorized officials or personnel to adjudicate a complaint or appeal; or (d) to disclose information to another Federal agency or to a court or third party in litigation when the Government is party to a suit before the court.

RESPONDENT BURDEN STATEMENT: In accordance with the Paperwork Reduction Act of 1995, The Department of Veterans Affairs (VA) may not conduct or sponsor, and the respondent is not required to respond to this collection of information unless it displays a valid OMB Control Number. The valid OMB Control Number for this information collection is 2900-0716. The collection of this information is voluntary. However, the information is necessary to determine if your complaint of employment discrimination is acceptable for further processing in accordance with EEOC, 29 C.F.R. §1614. The time required to complete this information collection is estimated to average 30 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing the form. Send comments regarding this burden estimate or any other aspects of this collection, including suggestions for reducing this burden, to VA Clearance Officer (005R1B), 810 Vermont Avenue, Washington, DC 20420. SEND COMMENTS ONLY. DO NOT SEND THIS FORM, A COMPLAINT OF EMPLOYMENT DISCRIMINATION, OR REQUEST FOR BENEFITS TO THIS ADDRESS

Bases	Claims	Dates of Occurrence
<p>Disability – Mental/Physical; Sex – Male.</p>	<p>Harassment/Hostile Work Environment (Non-Sexual) Detail</p>	<p>Claims subjected to a Harassment/Hostile Work Environment, fostered by your supervisor, Stacy Swenson, and it has gotten to the point that it has negatively impacted your health, physically and mentally.</p> <p>Contends that Ms. Swenson, has inflicted upon you, mental/emotional abuse, depression, bullying, personal attacks, offensiveness and harassment, while she continuously conducts herself in an unprofessional and manipulative manner, by using racially motivated and derogatory name calling, making homophobic remarks, yelling, and cursing;</p> <p>The following are events/incidents that you have experienced, from Ms. Swenson:</p> <p>5/7/20 – Claims that after setting up a meeting, like you thought Ms. Swenson wanted, based on your conversation the day before, she called you and was very upset, telling you she was upset and began asking you questions about why you had set that meeting up and there wasn't anything to discuss, etc. You contend, you attempted to tell her that you set the meeting up through her secretary and that you thought that was what she wanted, but she said no and that she didn't want to discuss it with you and, that she would meet with Dr. White and Dr. Thompson;</p>

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After you determined you had enough of Ms. Swenson's verbal/mental abuse, you called Ms. Deborah Eddy to report the matter to her. Ms. Eddy asked you to send her an email, detailing the issues. Upon sending the email to Ms. Eddy, she called you and told you that you will need to meet with EEO. You assert, you met with EEO, 6/2020, but they did not do anything;

Claims that when you tried to address Ms. Swenson's behavior and conduct in a complaint, sent to the Nurse Exec, Deb Eddy and HR, nothing has been done or said to you about it, other than you were detailed to another Chief. You contend, you have since been ostracized by your peers and your previous nurse manager group is not allowed to talk to you any longer. Additionally, you stated that one of them told you that it is because she does not want Ms. Swenson to think they are going against her;

Contents that later in the day, you received a phone call from Ms. Swenson, and she was hollering loud and began to make accusations about the UA/USD incident. During this call, she told you that you needed to go to her office to talk about this, right then, but you did not think it was a good idea, due to her mindset. Claims she then became even angrier and started to yell into the phone and you stopped her and said, I will not listen to your yelling, bullying, accusations or anger any longer;

5/6/20 – Claims that Ms. Swenson became irritated and belligerent with you, when you tried to discuss the UA issue with her, from a previous conversation you all had, when you perceived that your department was not collecting UA/UDS. As you proceeded to explain what you were being told by the ED Psychiatrist, Ms. Swenson became upset and wanted to know who had drug the ED Psychiatrist into the matter, which caused a heated exchange of words about her questioning your ability to get things done;

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		<p>4/2020 – Contends that after sending your subordinate, Mr. LeSueur's, proficiency to Ms. Swenson, she called you a few days later to her office and told you that she was not going to approve an Outstanding for him and told you that Mr. LeSueur was lucky to get a Highly Satisfactory from her. Additionally, she said the gay committees didn't help the Veterans; it was just for the "buttfuckers" that he's friends with;</p> <p>4/17/20 – Claims, you met with Ms. Swenson to discuss your subordinate, Mr. LeSueur's proficiency with her and she accused you of being a "pussy" and a "chicken shit" for not rating Mr. LeSueur Satisfactory, because you were afraid he would file something on you;</p> <p>3/27/20 – Claims, Ms. Swenson, described to Dr. Pollitte, that a contraption Larry Garland (MSA) had made, to open the SCU doors without having to get out of his seat, as "nigger rigging." You contend Ms. Swenson made this comment while you, Sierra Spencer-Mitchell, and Dr. Pollitte, were in Ms. Swenson's office;</p> <p>2/22/20 – Claims that Ms. Swenson was yelling, cursing and telling you that you were acting like a staff nurse instead of a manager and that you could be charged with harassment for accusing Dr. Kolodziej of being under the influence;</p> <p>1/2020 – Claims that while you and Ms. Swenson were discussing some issues with Dr. Sarodia in SCU, she stated to you, "I can't stand those sand niggers" and you had quickly changed the subject, because this made you very uncomfortable;</p> <p>Claims that after voicing your frustrations to Mrs. Swenson, over a matter involving how you handled an investigation, you and Ms. Swenson were discussing Dr. Noe, Associate Director, when she stated that Dr. Noe is a miserable person, she is a huge liberal democrat and is so fat and ugly that a black man wouldn't sleep with her, and this</p>
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		<p>created a very awkward moment for you, so you changed the subject;</p> <p>Claims that while you and Sierra Spencer- Mitchell (a black/f) were in Ms Swenson' s office, talking about PBNRPS and various other issues, Ms. Swenson was talking about Misty Hairston (CLC), when she stated to you all, "You know she's married to a black man, she's one of those girls;"</p> <p>Claims that on multiple occasions, Ms. Swenson has called employees fat (Ms Glass and Ms. Barringer).</p>
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Bryan Bunt 8-10-2020